admitted that the personal rights granted by the Constitution extended to the Territories only by necessary inference. *Mormon Church* v. *United States*, 136 U. S. 1, 43. But why, it may be asked, is this inference necessary? If it is necessary, it should apply equally to the control of tribal Indians; but in dealing with them Congress has never felt itself limited by the amendments or by the analogous clauses in the Constitution itself. On principle, the Constitution is not to be regarded as a curb on a dangerous legislature, nor did the framers so regard it. Perhaps they never thought of colonies except with vagueness; but if they did, they surely did not intend to set up hard rules for their government. Much less were the amendments intended for the present contingency, being framed for what was felt to be a lack in the existing state of affairs, to protect the people of the States then existing, and possibly the subsequent States that might be admitted. 2 Lloyd, Debates of Congress, 224, 227. When colonies come, we cannot suppose that the Constitution or its amendments were meant as checks upon the nation's necessary political experience, and we should avoid any inference tending to give them that effect. Politic or impolitic as the possession of colonies may be, Congress should be unfettered in devising a system of laws for them.

THE LIABILITY OF LANDOWNERS TO CHILDREN. — The conclusion was reached in a recent leading article that upon principle the law ought not to impose upon a landowner a special liability to children entering his land without permission, although the children were attracted by his method of making beneficial use of his premises. 11 HARVARD LAW REVIEW, 349, 434. There is upon this question a remarkable conflict of authority. The line of decisions has attained a certain notoriety as the "turn-table cases;" but an exhaustive review of the authority must include, as did the principal article, an examination of collateral cases where the injury was the result of other beneficial user.

In the few months since the publication of the article referred to the main question has been considered in several decisions. Of first importance are the decisions in jurisdictions where the question was yet an open one. In the very case of injury from a turn-table two New Jersey courts, — the Supreme Court and the Court of Errors and Appeals, — declare in able opinions, though with dissent in each case, that there is no special duty cast upon the landowner to protect the child. On the other hand, the Illinois court, in the case of an injury in a grain elevator, evidently inclines to the opposite view. In Michigan, the court distinguishes an unguarded street car from a turn-table; yet the decision notes the conflict of authority, and cautiously inclines toward the decisions for the landowner. Again, the North Dakota court held for the landowner in the case of an injury to a child by coming in contact with moving shafting; and in a *dictum* an opinion is clearly indicated adverse to the turn-table cases. Upon the whole, then, these last cases distinctly follow the tendency of the decisions of late years to deny that the landowner is under any special liability to the child. *Turess* v. *New York, S. & W. R. R. Co.*, 40 Atl. Rep. 614 (N. J. Sup.); *Delaware, L. & W. R. R. Co.*, v. *Reich*, 40 Atl. Rep. 682 (N. J. C. A.); *Kaumeier* v. *City Electric Ry. Co.*, 74 N. W. Rep. 481 (Mich.); *O'Leary* v. *Brooks Co.*, 75 N. W. Rep. 919 (No. Dak.); *Siddall* v. *Jansen*, 48 N. E. Rep. 191 (Ill.).

When a State has once committed itself to the turn-table doctrine that

State cannot be expected to depart from it upon the precise facts; but in such States the policy first declared by Minnesota is followed, and the courts refuse to extend the principle to cases of other beneficial user of land, however undistinguishable those cases be in principle from the turn-table cases. The case for the child will receive some support from a late English decision that a landowner is under a special liability to keep that part of his premises which abuts upon a highway safe for children. Recent American authority, however, upon the collateral question, inclines wholly the other way. Indeed, it commends itself to common sense that "a landowner cannot be bound to guard every stairway, shed, tree, and open window so that a child cannot climb to a precipitous place and fall off," or "every pond and excavation so that he fall not in." or "every switch yard and mill so that he do not enter," or "every coil of rope on shipboard, that he be not entangled." And so the several cases hold. *San Antonio & A. P. R. R.* v. *Morgan*, 45 S. W. Rep. 189, s. c. 374, s. c. 46 id. 28 (Tex.); *Harred* v. *Watney*, 78 Law Times Rep. 788; *Hackney* v. *Wolloston*, 75 N. W. Rep. 1037 (Minn.); *Stendall* v. *Boyd*, 75 N. W. Rep. 735 (Minn.); *Jackson* v. *Louisville & N. R. R.*, 46 S. W. Rep. 5 (Ky. C. A.); *Buck* v. *Amory Co*, 1 N. H. Reporter, 182.

The general result of these late authorities is to eliminate the fiction of an "implied invitation" or "allurement," or a "constructive intent" from the argument for the child, and to eliminate the theory of the absolute immunity of the landowner from obligation to trespassers from the argument for the landowner. There remains a clear issue of public policy: does the danger of occasional harm to children outweigh the benefit to the commnnity of leaving owners unfettered in making beneficial use of their land?

THE RIGHT TO PRIVACY. — It has long been public opinion that there must be found some principle of law to protect the privacy of the individual from the paragraphs, caricatures, and advertisements of the public print. A development in the law to meet this opinion would seem to be arrested by a recent decision in the Queen's Bench Division. *Dockrell* v. *Dougall*, 78 Law Times Rep. 840. In this case the plaintiff was a physician, the defendant, the owner of a medicine called Sallyco. In an advertisement of his medicine the defendant published of the plaintiff, with substantial truth, but without authorization: "Dr. Morgan Dockrell, physician to St. John's Hospital, London, is prescribing Sallyco as an habitual drink. Dr. Dockrell says nothing has done his gout so much good." For this the plaintiff brought an action; but the suit was dismissed upon the ground that there was no injury to the plaintiff's property or reputation.

The present actions for defamation fail to give a remedy in two classes of cases where there may often be actual wrongs. When a statement is false but is neither libel *per se* nor a cause of pecuniary loss, and when a publication is true, there are no actions for defamation. The existence of this unredressed residue in the law governing publication has given rise to the question whether the modern law does not recognize something in the nature of a right to privacy to protect personal appearance, sayings, acts, and personal relations from unwished publicity. This hypothesis of a right to privacy has appeared by way of *dictum* in late American reports. *Schuyler* v. *Curtis*, 174 N. Y. 434. The tendency of English authority has also been definitely in the same direction until